

Ari B. Teman

April 20, 2022

Nissan 19, 5782

Chol Hamoed, Passover

The Honorable Paul A. Engelmayer
District Judge
Southern District of New York
40 Foley Square,
New York, NY

RE: Emergency Motion to Unseal January 10, 2020 Transcript.

Your Honor recently authorized the release to me of a sealed portion of the transcript from the January 10, 2020 proceedings. I have reviewed the transcript with my appellate counsel and he concurs with me that the transcript contains material relevant to issues of recusal and bias that we are pursuing on appeal.

I am herewith filing an emergency motion for your Honor to unseal the transcript so that I can freely refer to its contents in my brief on appeal (and in any trial court proceedings).

Mr. Bhatia has confirmed that the Government does not object to the unsealing of these five (5) pages of sealed transcript from January 10, 2020.

As your Honor knows, the primary subject of discussion during the sealed portion of the hearing concerned my mental health and as the party whose interests were allegedly being protected by the sealing, I should be free to request the unsealing of the transcript.

The only portion of the transcript that does not concern my mental health relates to an *ex parte* call your Honor previously made. I believe this call is relevant to arguments we are making on appeal and do not believe any of the reasons for sealing a transcript apply to this portion of the record.

As the Second Circuit has stated:

Under both the common law and the First Amendment, there is a strong presumption of public access to judicial documents, including the transcript of the plea proceeding and the district court's November 8, 2018 sealing order. In light of this strong First Amendment presumption, continued sealing of the documents may be justified only with specific, on-the-record findings that sealing is necessary to preserve higher values and only if the sealing order[s] [are] narrowly tailored to achieve that aim. *In re New York Times*, 799 F. App'x 62, 65 (2d Cir. 2020).

The Second Circuit has identified some of the “higher values” that justify continue sealing of a record, none of which apply here. *See Brown v. Maxwell*, 929 F.3d 41, 47 and Note 13 (2d Cir. 2019)(“the right of an accused to fundamental fairness in the jury selection process,” *Press-Enter. Co. v. Superior Court of California, Riverside Cty.*, 464 U.S. 501, 510 (1984); the protection of attorney-client privilege, *Lugosch*, 435 F.3d at 125; “the danger of impairing law enforcement or judicial efficiency,” *SEC. v. TheStreet.Com*, 273 F.3d 222, 232 (2d Cir. 2001); and “the privacy interest of those who resist disclosure” *id.*).

Because the deadline for perfecting my appeal is April 25, 2022, I respectfully request that your Honor immediately order the unsealing of the sealed portion of the April 25, 2022 transcript.¹

My appellate counsel assisted me in the drafting of this motion.

Respectfully,

¹ Counsel filed a motion for a 30-day extension yesterday, but we have not yet obtained a ruling on that motion.

A handwritten signature in black ink, consisting of a series of connected loops and a long, sweeping horizontal stroke that extends to the right.

Ari Teman
Defendant, pro se